IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.5664 OF 2004

1. Sou Kalavati Bajirao Patil and ors. Petitioners.
Vs
1. Dinkar Vitthal Patil and ors. Respondents.

Shri A.G.Sakhare, senior counsel with Mr Sarang Aradhye, for the petitioners.
Shri R.M.Pethe, for respondent no.1.

CORAM : D.B.BHOSALE,J.
DATE : 01.09.2006

PC:

1. Heard the learned counsel for the parties.

2. Rule. Returnable forthwith. Mr.Pete, learned counsel, waives service for respondent no.1. By consent, rule is heard forthwith.

3. In this petition, the petitioners have impugned the order dated 17.6.2004 passed by the court below on the application at Exhibit-58 filed by the petitioners-defendants for setting aside "No W.S.Order" and for allowing them to place the written statement on record. That application was rejected in view of the judgment of this court in Prabhakar Madhavrao Mule Vs. Bhagwan Mitharam Choudhari (W.P. Nos. 4688/03 and 4700/03). The law is well settled. The Division Bench of this Court in Chintaman Sukhdeo Kaklij and ors Vs.

Shivaji Bhausaheb Gadhe and ors, (W.P.2487/04 decided on 12/13.4.04) has affirmed the view taken by the learned Single Judge in Shaleja A. Sawant Vs. Sayajirao Ganpatrao Patil, 2004 (2) Mh.L.J.419. In view thereof, the learned counsel for the parties state that the order impugned may be set aside with directions to the trial Court to decide the application Exhibit-58 afresh in the light of the judgment of this court in the aforestated cases. In the circumstances, I pass the following order:

(i) The order dated 17.6.2004 is quashed and set aside. The application at Exhibit-58 in Regular Civil Suit No.200 of 2003 stands restored to file. The trial Court shall decide the said application on merits in accordance with law and in the light of the law laid down by this court as expeditiously as possible and preferably within a period of four weeks from the date of receipt of this order. If the application is allowed, the trial Court shall endeavour to dispose of the suit expeditiously. Rule is disposed of.

(D.B.BHOSALE,J.)